



Paper No. 3 ✓

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In re Application of :
Khandros et al. :
Application No. 09/827,840 :
Filed: April 6, 2001 :
Attorney Docket No. TESSERA 3.3-018CCIIDCCII :

**OFFICE OF PETITIONS
A/C PATENTS
ON PETITION**

This is a decision on the petition filed April 9, 2001, to accord the above-identified application a filing date of April 6, 2001.

The petition is **granted**.

37 CFR 1.10(d) states:

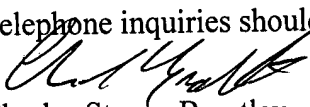
Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
- (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

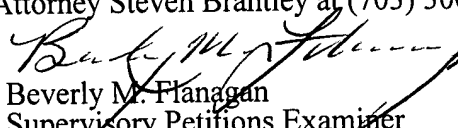
It should be noted that petitioner has not established that the express label "date-in" differs from April 6, 2001, in so far as a copy of the label has not been provided. Petitioner states that a copy of a computer report from the U.S.P.S. is enclosed but a review of the petition fails to disclose a copy of the computer report. However, petitioner has proven by submitting evidence that came into being within one business day of the deposit of the application that, if the date-in of the label differs from April 6, 2001, then the date-in is incorrect. The application will be accorded a filing date of April 6, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of April 6, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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